

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN ASSEMBLY JULY 15, 2003

AMENDED IN ASSEMBLY JUNE 30, 2003

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 130

Introduced by Senator Chesbro

February 5, 2003

An act to add Division 1.5 (commencing with Section 1180) to the Health and Safety Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 130, as amended, Chesbro. Health and care facilities: use of seclusion and behavioral restraints.

Existing law provides for the licensure and regulation of health facilities, including various types of hospitals that provide mental health treatment services, by the State Department of Health Services.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care and residential facilities by the State Department of Social Services. Existing law authorizes these facilities to provide mental health treatment services.

Under existing law, the State Department of Mental Health is charged with the state administration of state hospitals for the mentally disordered.

Under existing law, these facilities are authorized to provide secure containment or use seclusion and restraints, as specified, on patients.

This bill would require the California Health and Human Services Agency, to provide leadership and coordination necessary to reduce the use of seclusion and behavioral restraints in facilities that are licensed, certified, or monitored by departments that fall within its jurisdiction.

This bill would require the *State Department of Mental Health, the State Department of Developmental Services, and the secretary, respectively*, to develop technical assistance and training programs to support the efforts of facilities to reduce or eliminate the use of seclusion and behavioral restraints in *specified* facilities, and to take steps to ~~ensure~~ *establish* a system of data collection.

This bill would authorize specified facilities to use seclusion and behavioral restraints for behavioral emergencies only when a person's behavior presents an imminent danger of serious harm to the person or others, would require an initial assessment of each person upon admission for these purposes, and would prohibit specified facilities from using specified types of seclusion and behavioral restraints. This bill would also require these facilities to conduct reviews, as specified, for each episode of the use of seclusion or behavioral restraint, to conduct debriefings, as specified, and to document the incident. This bill would also require ~~these~~ *certain* facilities to report, as specified, each death or serious injury occurring during, or related to, the use of seclusion or behavioral restraints.

This bill would require the State Department of Health Services, the State Department of Mental Health, the State Department of Social Services, and the State Department of Developmental Services to make annual reports to the Legislature on these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The use of seclusion and behavioral restraints is not
4 treatment, and their use does not alleviate human suffering or
5 positively change behavior. ~~In addition, when used, they are~~
6 ~~dangerous and dehumanizing.~~



1 ~~(b) Inactivity, boredom, and confinement in noisy and crowded~~
2 ~~wards are significant contributors to frustration, conflict, and~~
3 ~~stress in facilities, and lead to the problem of the use of seclusion~~
4 ~~and behavioral restraints.~~

5 *(b) Good milieu programs, interesting activities, and attention*
6 *to every person's need for sufficient space all contribute to an*
7 *environment in which seclusion and behavioral restraints can be*
8 *minimized.*

9 (c) An ongoing commitment to varied, active, and stimulating
10 choices of programming is important in addressing the problems
11 of the use of seclusion and behavioral restraints in facilities.

12 (d) The commitment of managers and staff of facilities is
13 essential to changing the culture of those facilities and reducing the
14 use of seclusion and behavioral restraints, and providing a safer
15 and more therapeutic environment for mental health patients,
16 *residents*, and staff in California.

17 (e) In order to achieve the goal of a reduction in the use of
18 seclusion and behavioral restraints, California must utilize the best
19 practices developed in other states, and use the most efficient
20 modern resources to accomplish these goals, including
21 computerized data collection and analysis, public access to this
22 information on the Internet, strategies for organizational change,
23 staff training in risk assessment, crisis prevention and
24 intervention, ~~patient~~ debriefing models, and recovery-based
25 treatment models.

26 (f) Adequate numbers of staff are essential to reducing
27 seclusion and behavioral restraints in facilities; however,
28 California faces a human resource crisis in mental health care.
29 According to the California Mental Health Planning Council,
30 vacancy rates for mental health positions in California exceed 30
31 percent. The Employment Development Department estimates
32 that between 1998 and 2008, public and private providers will
33 need to fill 45,000 mental health positions. To address this crisis,
34 the Little Hoover Commission has called for coordinated,
35 integrated, and success-oriented strategies such as hiring clients,
36 recruitment efforts, training academies, scholarships and loan
37 forgiveness, workload analysis, and ensuring training in core
38 competencies. The Legislature finds that resolving California's
39 mental health workforce crisis is important to the goal of reducing
40 seclusion and behavioral restraints in California facilities.

(g) It is the intent of the Legislature in enacting this act to achieve a reduction in the use of seclusion and behavioral restraints in facilities in California.

SEC. 2. Division 1.5 (commencing with Section 1180) is added to the Health and Safety Code, to read:

DIVISION 1.5. USE OF SECLUSION AND BEHAVIORAL RESTRAINTS IN FACILITIES

1180. (a) The California Health and Human Services Agency, in accordance with their mission, shall provide the leadership and coordination necessary to reduce the use of seclusion and behavioral restraints in facilities that are licensed, certified, or monitored by departments that fall within its jurisdiction.

~~(b) This division shall apply to all facilities that utilize seclusion or behavioral restraints, including, but not limited to, state hospitals, the psychiatric units of general acute care hospitals, acute psychiatric hospitals, psychiatric health facilities, crisis stabilization units, community treatment facilities, group homes, skilled nursing facilities, intermediate care facilities, community care facilities, and mental health rehabilitation centers.~~

~~(c)~~

(b) The agency may make recommendations to the Legislature for additional facilities or additional units or departments within facilities that should be included within the requirements of this division in the future, including, but not limited to, emergency rooms.

(c) At the request of the secretary, the involved state departments shall provide information about existing training protocols and requirements for direct care staff who work in facilities within their jurisdiction. All involved state departments shall cooperate in implementing any training protocols established pursuant to this division.

(d) It is the intent of the Legislature that the secretary pursue federal and private funding to support the development of a training protocol that can be incorporated into the existing training activities for direct care staff conducted by the state, facilities, and educational institutions to reduce the use of seclusion and restraints.

(e) *This section should be implemented as soon as it can reasonably be achieved within existing resources. The agency and involved departments may incrementally implement this section in order to accomplish its goals within existing resources, or through the use of federal or private funding or any subsequent appropriation by the Legislature, or all of these.*

1180.1. For purposes of this division, the following definitions apply:

~~(1)~~

(a) “Behavioral restraint” means “mechanical restraint” or “physical restraint” as defined in this section, used as an intervention when a person presents an immediate danger to self or to others. It does not include restraints used for medical purposes, including, but not limited to, securing an intravenous needle or immobilizing a person for a surgical procedure, or postural restraints, or devices used to prevent injury or to improve a person’s mobility and independent functioning rather than to restrict movement.

~~(2)~~

(b) “Containment” means a brief physical restraint of a person for the purpose of effectively gaining quick control of a person who is aggressive or agitated or who is a danger to self or others.

~~(3)~~

(c) “Mechanical restraint” means the use of a mechanical device, material, or equipment attached or adjacent to the person’s body that he or she cannot easily remove and that restricts the freedom of movement of all or part of a person’s body or restricts normal access to the person’s body, and that is used as a behavioral restraint.

~~(4)~~

(d) “Physical restraint” means the use of a manual hold to restrict freedom of movement of all or part of a ~~patient’s~~ person’s body, or to restrict normal access to the ~~patient’s~~ person’s body, and that is used as a behavioral restraint. “Physical restraint” is any ~~staff-to-patient~~ staff-to-person physical contact in which the ~~patient~~ person unwillingly participates. “Physical restraint” does not include briefly holding a person without undue force in order to calm or comfort, or physical contact intended to gently *assist a person in performing tasks or to* guide or assist a person from one area to another.

1 ~~(5)–~~

2 (e) “Seclusion” means the involuntary confinement of a
3 person alone in a room or an area from which the ~~resident person~~
4 is physically prevented from leaving. “Seclusion” *does not*
5 *include a “timeout,” as defined in regulations relating to facilities*
6 *operated by the State Department of Developmental Services.*

7 ~~(6)–~~

8 (f) “Secretary” means the Secretary of the California Health
9 and Human Services Agency.

10 ~~(7)–~~

11 (g) “Serious injury” means any significant impairment of the
12 physical condition as determined by qualified medical personnel,
13 and includes, but is not limited to, burns, lacerations, bone
14 fractures, substantial hematoma, or injuries to internal ~~organs,~~
15 ~~whether self-inflicted or inflicted by someone else.~~

16 ~~(d) (1) The agencies or entities specified by the secretary, at~~
17 ~~the request of the secretary, shall provide information to the~~
18 ~~secretary regarding efforts undertaken to reduce the use of~~
19 ~~seclusion and behavioral restraints, including, but not limited to,~~
20 ~~efforts to pursue federal funding for this purpose.~~

21 ~~(2) As funds become available, the secretary or his or her~~
22 ~~designee shall develop technical assistance and training programs~~
23 ~~to support the efforts of facilities to reduce or eliminate the use of~~
24 ~~seclusion and behavioral restraints in those facilities that utilize~~
25 ~~them. Technical assistance and training programs should be~~
26 ~~designed with the input of clients and direct care staff and should~~
27 ~~be based on best practices that lead to reduced use of seclusion and~~
28 ~~behavioral restraints, including, but not limited to, the following:~~

29 ~~(A) Assessment of underlying reasons for the escalated~~
30 ~~behavior.~~

31 ~~(B) Avoidance and management of crisis situations.~~

32 ~~(C) Treatment planning that identifies risk factors, positive~~
33 ~~early intervention strategies, and strategies to minimize time spent~~
34 ~~in seclusion or behavioral restraints.~~

35 ~~(D) Conflict resolution, deescalation, and client-centered~~
36 ~~problem solving strategies that diffuse and safely resolve~~
37 ~~emerging crisis situations.~~

38 ~~(E) Debriefing strategies that result in client and staff comfort~~
39 ~~in identifying factors that lead to seclusion or behavioral restraint~~

1 ~~and factors that would reduce likelihood of future seclusion or~~
2 ~~behavioral restraint occurrences.~~

3 ~~(3) The secretary shall pursue federal and private funding to~~
4 ~~support the development of a training protocol that can be~~
5 ~~incorporated into the existing training activities for direct care~~
6 ~~staff conducted by the state, facilities, and educational institutions~~
7 ~~to reduce the use of seclusion and restraints.~~

8 ~~(e) organs.~~

9 1180.2. (a) *This section shall apply to the state hospitals*
10 *operated by the State Department of Mental Health and facilities*
11 *operated by the State Department of Developmental Services that*
12 *utilize seclusion or behavioral restraints.*

13 (b) *The State Department of Mental Health and the State*
14 *Department of Developmental Services shall develop technical*
15 *assistance and training programs to support the efforts of facilities*
16 *to reduce or eliminate the use of seclusion and behavioral*
17 *restraints in those facilities described in subdivision (a).*

18 (c) *Technical assistance and training programs should be*
19 *designed with the input of stakeholders, including clients and*
20 *direct care staff, and should be based on best practices that lead*
21 *to the avoidance of seclusion and behavioral restraints, including,*
22 *but not limited to, all of the following:*

23 (1) *Conducting an intake assessment that is consistent with*
24 *facility policies and that includes issues specific to seclusion and*
25 *behavioral restraints as specified in Section 1180.4.*

26 (2) *Utilizing strategies to engage clients collaboratively in*
27 *assessment, avoidance, and management of crisis situations in*
28 *order to prevent incidents of seclusion and behavioral restraints.*

29 (3) *Recognizing and responding appropriately to underlying*
30 *reasons for escalating behavior.*

31 (4) *Utilizing conflict resolution, effective communication,*
32 *deescalation, and client-centered problemsolving strategies that*
33 *diffuse and safely resolve emerging crisis situations.*

34 (5) *Individual treatment planning that identifies risk factors,*
35 *positive early intervention strategies, and strategies to minimize*
36 *time spent in seclusion or behavioral restraints. Individual*
37 *treatment planning should include input from the person affected.*

38 (6) *While minimizing the duration of time spent in seclusion or*
39 *behavioral restraints, using strategies to mitigate the emotional*
40 *and physical discomfort and ensure the safety of the person*

1 *involved in seclusion or behavioral restraints, including input*
2 *from the person about what would alleviate his or her distress.*

3 *(7) Training in conducting an effective debriefing meeting as*
4 *specified in Section 1180.5, including the appropriate persons to*
5 *involve, the voluntary participation of the person who has been in*
6 *seclusion or behavioral restraints, and strategic interventions to*
7 *engage affected persons in the process. The training should*
8 *include strategies that result in maximum participation and*
9 *comfort for the involved parties to identify factors that lead to*
10 *seclusion and behavioral restraints and factors that would reduce*
11 *the likelihood of future incidents.*

12 *(d) (1) The State Department of Mental Health and the State*
13 *Department of Developmental Services shall take steps to*
14 *establish a system of mandatory, consistent, timely, and publicly*
15 *accessible data collection regarding the use of seclusion and*
16 *behavioral restraints in facilities described in this section. It is the*
17 *intent of the Legislature that data be compiled in a manner that*
18 *allows for standard statistical comparison.*

19 *(2) The State Department of Mental Health and the State*
20 *Department of Developmental Services shall develop a*
21 *mechanism for making this information publicly available on the*
22 *Internet.*

23 *(3) Data collected pursuant to this section shall include all of*
24 *the following:*

25 *(A) The number of deaths that occur while persons are in*
26 *seclusion or behavioral restraints, or where it is reasonable to*
27 *assume that a death was proximately related to the use of seclusion*
28 *or behavioral restraints.*

29 *(B) The number of serious injuries sustained by persons while*
30 *in seclusion or subject to behavioral restraints.*

31 *(C) The number of serious injuries sustained by staff that occur*
32 *during the use of seclusion or behavioral restraints.*

33 *(D) The number of incidents of seclusion.*

34 *(E) The number of incidents of use of behavioral restraints.*

35 *(F) The duration of time spent per incident in seclusion.*

36 *(G) The duration of time spent per incident subject to*
37 *behavioral restraints.*

38 *(H) The use of involuntary emergency medication that is used*
39 *to control behavior.*



1 (e) A facility described in subdivision (a) shall report each
2 death or serious injury of a person occurring during, or related to,
3 the use of seclusion or behavioral restraints. This report shall be
4 made to the agency designated in subdivision (h) of Section 4900
5 of the Welfare and Institutions Code no later than the close of the
6 business day following the death or injury. The report shall include
7 the encrypted identifier of the person involved, and the name, street
8 address, and telephone number of the facility.

9 1180.3. (a) This section shall apply to all facilities that utilize
10 seclusion or behavioral restraints except state mental hospitals
11 and developmental centers. Facilities to which this section applies
12 include, but are not limited to, the psychiatric units of general
13 acute care hospitals, acute psychiatric hospitals, psychiatric
14 health facilities, crisis stabilization units, community treatment
15 facilities, group homes, skilled nursing facilities, intermediate
16 care facilities, community care facilities, and mental health
17 rehabilitation centers.

18 (b) (1) As funds become available, the secretary or his or her
19 designee shall develop technical assistance and training programs
20 to support the efforts of facilities to reduce or eliminate the use of
21 seclusion and behavioral restraints in those facilities that utilize
22 them.

23 (2) Technical assistance and training programs should be
24 designed with the input of stakeholders, including clients and
25 direct care staff, and should be based on best practices that lead
26 to the avoidance of seclusion and behavioral restraints, including,
27 but not limited to, all of the following:

28 (A) Conducting an intake assessment that is consistent with
29 facility policies and that includes issues specific to seclusion and
30 behavioral restraints as specified in Section 1180.4.

31 (B) Utilizing strategies to engage clients collaboratively in
32 assessment, avoidance, and management of crisis situations in
33 order to prevent incidents of seclusion and behavioral restraints.

34 (C) Recognizing and responding appropriately to underlying
35 reasons for escalating behavior.

36 (D) Utilizing conflict resolution, effective communication,
37 deescalation, and client-centered problemsolving strategies that
38 diffuse and safely resolve emerging crisis situations.

39 (E) Individual treatment planning that identifies risk factors,
40 positive early intervention strategies, and strategies to minimize

1 *time spent in seclusion or behavioral restraints. Individual*
2 *treatment planning should include input from the person affected.*

3 (F) *While minimizing the duration of time spent in seclusion or*
4 *behavioral restraints, using strategies to mitigate the emotional*
5 *and physical discomfort and ensure the safety of the person*
6 *involved in seclusion or behavioral restraints, including input*
7 *from the person about what would alleviate his or her distress.*

8 (G) *Training in conducting an effective debriefing meeting as*
9 *specified in Section 1180.5, including the appropriate persons to*
10 *involve, the voluntary participation of the person who has been in*
11 *seclusion or behavioral restraints, and strategic interventions to*
12 *engage affected persons in the process. The training should*
13 *include strategies that result in maximum participation and*
14 *comfort for the involved parties to identify factors that lead to*
15 *seclusion and behavioral restraints and factors that would reduce*
16 *the likelihood of future incidents.*

17 (c) (1) *Within existing resources, the secretary or his or her*
18 *designee shall take steps to ensure—establish a system of*
19 *mandatory, consistent, timely, and publicly accessible data*
20 *collection regarding the use of seclusion and behavioral restraints*
21 *in all facilities described in subdivision (b)—(a) that utilize*
22 *seclusion and behavioral restraints. In determining a system of*
23 *data collection, the secretary should utilize existing efforts, and*
24 *direct new or ongoing efforts, of associated state departments to*
25 *revise or improve their data collection systems. The secretary*
26 *should consider—shall make recommendations for a mechanism to*
27 *ensure compliance by facilities, including, but not limited to,*
28 *penalties for failure to report in a timely manner. It is the intent of*
29 *the Legislature that data be compiled in a manner that allows for*
30 *standard statistical comparison and be maintained for each facility*
31 *subject to reporting requirements for the use of seclusion and*
32 *behavioral restraints.*

33 ~~(f) The secretary shall develop a mechanism for making this~~
34 ~~information publicly available on the Internet as soon as possible.~~

35 ~~(g) Data collected pursuant to subdivision (c) shall include all~~
36 ~~of the following:~~

37 ~~(1) The number of deaths that occur while a person is in~~

38 ~~(2) The secretary shall develop a mechanism for making this~~
39 ~~information, as it becomes available, publicly available on the~~

1 *Internet. This paragraph shall be implemented as soon as it*
2 *reasonably can be achieved within existing resources.*

3 (3) *The departments shall cooperate and share resources to*
4 *develop uniform reporting for all facilities, by establishing new or*
5 *amending existing reporting requirements for facilities described*
6 *in subdivision (a). As additional facilities are required to report*
7 *information regarding the utilization of seclusion and behavioral*
8 *restraints, the information shall be made publicly available*
9 *pursuant to this subdivision.*

10 (4) *Data collected pursuant to this subdivision shall include all*
11 *of the following:*

12 (A) *The number of deaths that occur while persons are in*
13 *seclusion or behavioral restraints, or where it is reasonable to*
14 *assume that the a death was proximately related to the use of*
15 *seclusion or behavioral restraints.*

16 ~~(2)~~

17 (B) *The number of serious injuries sustained by persons while*
18 *in seclusion or subject to behavioral restraints.*

19 ~~(3)~~

20 (C) *The number of serious injuries sustained by staff that occur*
21 *during the use of seclusion or behavioral restraints.*

22 ~~(4)~~

23 (D) *The number of incidents of seclusion.*

24 ~~(5)~~

25 (E) *The number of incidents of use of behavioral restraints.*

26 ~~(6)~~

27 (F) *The duration of time spent per incident in seclusion.*

28 ~~(7)~~

29 (G) *The duration of time spent per incident subject to*
30 *behavioral restraints.*

31 ~~(8) The use of involuntary emergency medication.~~

32 ~~(h) Within existing resources, the secretary shall make~~
33 ~~recommendations for additional facilities or additional units or~~
34 ~~departments within facilities that should be included within the~~
35 ~~requirements of this section, including, but not limited to,~~
36 ~~emergency rooms.~~

37 ~~(i)~~

38 (H) *The use of involuntary emergency medication to control*
39 *behavior.*

(5) Within existing resources, the secretary or his or her designee shall *make recommendations to the Legislature on how to best* assess the impact of serious staff injuries sustained during the use of seclusion or behavioral restraints, on staffing costs and on workers' compensation claims and costs.

~~(j)–~~

(6) Within existing resources, the secretary or his or her designee shall work with the state departments that have responsibility for oversight of seclusion and behavioral restraints to review and eliminate redundancies and outdated requirements in the reporting of data on seclusion and behavioral restraints.

~~1180.1. A facility described in subdivision (b) of Section 1180~~
(d) *This section should be implemented as soon as it can reasonably be achieved within existing resources. The agency and involved departments may incrementally implement this section in order to accomplish its goals within existing resources, or through the use of federal or private funding or any subsequent appropriation by the Legislature, or all of these.*

1180.4. (a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct an initial assessment of each person upon admission to the facility, or as soon thereafter as possible. This assessment shall include input from the person and from *someone whom he or she desires to be present, such as* a family member, significant other, or authorized representative designated by the person, ~~if he or she desires~~, and if the desired third party can be present at the time of admission. This assessment shall also include, *based on the information available at the time of initial assessment*, all of the following:

~~(a)–~~

(1) A person's advance directive regarding deescalation or the use of seclusion or behavioral restraints.

~~(b)–~~

(2) Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.

~~(c)–~~

(3) Techniques, methods, or tools that would help the person control his or her behavior.

~~(d)~~

(4) Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.

~~(e)~~

(5) Any trauma history, including any history of sexual or physical abuse that the affected person feels is relevant.

~~1180.2.—A facility described in subdivision (b) of Section 1180~~

~~(b) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 may use seclusion or behavioral restraints for behavioral emergencies only when a person's behavior presents an imminent danger of serious harm to self or others.~~

~~1180.3.—(a) A facility described in subdivision (b) of Section 1180~~

~~(c) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) Section 1180.3 may not use either of the following:~~

~~(1) A physical restraint or containment technique that obstructs a person's respiratory airway or impairs the person's breathing or respiratory capacity, including techniques in which a staff member places pressure on a person's back or places his or her body weight against the person's torso or back.~~

~~(2) A pillow, blanket, or other item covering the person's face as part of a physical or mechanical restraint or containment process.~~

~~(b) A facility described in subdivision (b) of Section 1180 may~~

~~(d) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) Section 1180.3 may not use physical or mechanical restraint or containment on a person who has a known medical or physical condition, and where there is reason to believe that the use would endanger the person's life or exacerbate the patient's medical condition.~~

~~(e) A facility described in subdivision (b) of Section 1180 may not use prone mechanical restraint on a patient at risk for positional asphyxiation as a result of one of the following risk factors that are known to the provider:~~

~~(1) Obesity.~~

~~(2) Pregnancy.~~

~~(3) Agitated delirium or excited delirium syndromes.~~

~~(4) Cocaine, methamphetamine, or alcohol intoxication.~~

1 ~~(5) Exposure to pepper spray.~~

2 ~~(6) Preexisting heart disease, including, but not limited to, an~~
3 ~~enlarged heart and other cardiovascular disorders.~~

4 ~~(7) Respiratory conditions, including emphysema, bronchitis,~~
5 ~~or asthma.~~

6 ~~(d) A facility described in subdivision (b) of Section 1180 shall~~
7 ~~avoid the deliberate use of prone containment techniques~~
8 ~~whenever possible, utilizing the best practices in early intervention~~
9 ~~techniques such as deescalation. If prone containment techniques~~
10 ~~are used in an emergency situation, a staff member shall observe~~
11 ~~the patient for any signs of physical duress throughout the use of~~
12 ~~prone containment. Whenever possible, the staff member~~
13 ~~monitoring the patient shall not be involved in restraining the~~
14 ~~patient.~~

15 ~~(e) A facility described in subdivision (b) of Section 1180 may~~
16 ~~not place a patient in a facedown position with hands held or~~
17 ~~restrained behind the patient's back.~~

18 ~~(f) A facility described in subdivision (b) of Section 1180 may~~
19 ~~not use physical restraint or containment as an extended~~
20 ~~procedure.~~

21 ~~(g) A facility described in subdivision (b) of Section 1180 shall~~
22 ~~keep under constant, face-to-face human observation a person who~~
23 ~~is in seclusion and in any type of behavioral restraint at the same~~
24 ~~time.~~

25 ~~(h) A facility described in subdivision (b) of Section 1180 shall~~
26 ~~afford to patients who are restrained the least restrictive alternative~~
27 ~~and the maximum freedom of movement, while ensuring the~~
28 ~~physical safety of the patient and others, and must use the least~~
29 ~~number of restraint points.~~

30 ~~(i) A person in a facility described in subdivision (b) of Section~~
31 ~~1180 life or seriously exacerbate the person's medical condition.~~

32 ~~(d) (1) A facility described in subdivision (a) of Section 1180.2~~
33 ~~or subdivision (a) of Section 1180.3 may not use prone mechanical~~
34 ~~restraint on a person at risk for positional asphyxiation as a result~~
35 ~~of one of the following risk factors that are known to the provider:~~

36 ~~(A) Obesity.~~

37 ~~(B) Pregnancy.~~

38 ~~(C) Agitated delirium or excited delirium syndromes.~~

39 ~~(D) Cocaine, methamphetamine, or alcohol intoxication.~~

40 ~~(E) Exposure to pepper spray.~~

1 (F) *Preexisting heart disease, including, but not limited to, an*
2 *enlarged heart and other cardiovascular disorders.*

3 (G) *Respiratory conditions, including emphysema, bronchitis,*
4 *or asthma.*

5 (2) *Paragraph (1) shall not apply when written authorization*
6 *has been provided by a physician, made to accommodate a*
7 *person's stated preference for the prone position or because the*
8 *physician judges other clinical risks to take precedence. The*
9 *written authorization may not be a standing order, and shall be*
10 *evaluated on a case-by-case basis by the physician.*

11 (e) *A facility described in subdivision (a) of Section 1180.2 or*
12 *subdivision (a) of Section 1180.3 shall avoid the deliberate use of*
13 *prone containment techniques whenever possible, utilizing the*
14 *best practices in early intervention techniques, such as*
15 *deescalation. If prone containment techniques are used in an*
16 *emergency situation, a staff member shall observe the person for*
17 *any signs of physical duress throughout the use of prone*
18 *containment. Whenever possible, the staff member monitoring the*
19 *person shall not be involved in restraining the person.*

20 (f) *A facility described in subdivision (a) of Section 1180.2 or*
21 *subdivision (a) of Section 1180.3 may not place a person in a*
22 *facedown position with hands held or restrained behind the*
23 *person's back.*

24 (g) *A facility described in subdivision (a) of Section 1180.2 or*
25 *subdivision (a) of Section 1180.3 may not use physical restraint or*
26 *containment as an extended procedure.*

27 (h) *A facility described in subdivision (a) of Section 1180.2 or*
28 *subdivision (a) of Section 1180.3 shall keep under constant,*
29 *face-to-face human observation a person who is in seclusion and*
30 *in any type of behavioral restraint at the same time. Observation*
31 *by means of video camera may be utilized only in facilities that are*
32 *already permitted to use video monitoring under federal*
33 *regulations specific to that facility.*

34 (i) *A facility described in subdivision (a) of Section 1180.2 or*
35 *subdivision (a) of Section 1180.3 shall afford to persons who are*
36 *restrained the least restrictive alternative and the maximum*
37 *freedom of movement, while ensuring the physical safety of the*
38 *person and others, and shall use the least number of restraint*
39 *points.*

(j) A person in a facility described in subdivision (a) of Section 1180.2 and subdivision (a) of Section 1180.3 has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, the right to be free from the use of a drug used in order to control behavior or to restrict the ~~patient's~~ person's freedom of movement, if that drug is not a standard treatment for the ~~patient's~~ person's medical or psychiatric condition.

~~1180.4. (a) A facility described in subdivision (b) of Section 1180 shall conduct a clinical, administrative, and quality review for each episode of the use of seclusion or behavioral restraints.~~

~~(b) A facility described in subdivision (b) of Section 1180 shall, within 24 hours after the use of seclusion or behavioral restraints, conduct a debriefing regarding the incident with the person, and, if the person requests it, the person's family member, domestic partner, significant other or authorized representative, the staff members involved in the incident, and a representative of the senior or management staff of the facility, to discuss how to avoid~~

1180.5. (a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct a clinical and quality review for each episode of the use of seclusion or behavioral restraints.

(b) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall, as quickly as possible but no later than 24 hours after the use of seclusion or behavioral restraints, conduct a debriefing regarding the incident with the person, and, if the person requests it, the person's family member, domestic partner, significant other, or authorized representative, if the desired third party can be present at the time of the debriefing at no cost to the facility, as well as the staff members involved in the incident, if reasonably available, and a supervisor, to discuss how to avoid a similar incident in the future. The person's participation in the debriefing shall be voluntary. The purposes of the debriefing shall be to do all of the following:

(1) Assist the ~~patient~~ person to identify the precipitant of the incident, and suggest methods of more safely and constructively responding to the incident.

1 (2) Assist the staff to understand the precipitants to the
2 incident, and develop alternative methods of helping the person
3 avoid or cope with those incidents.

4 (3) Help treatment team staff devise treatment interventions to
5 address the root cause of the incident and its consequences, and to
6 modify the treatment plan.

7 ~~(4) Provide an opportunity for both persons and staff to assess~~
8 ~~the appropriateness and efficacy of staff response during the~~
9 ~~emergency, and attend to the person's feelings.~~

10 ~~(5)~~
11 (4) Help assess whether the intervention was necessary and
12 whether it was implemented in a manner consistent with staff
13 training and hospital policies.

14 (c) The facility shall, in the debriefing, provide both the ~~patient~~
15 *person* and staff the opportunity to discuss the circumstances
16 resulting in the use of seclusion or behavioral restraints, and
17 strategies to be used by the staff, the person, or others that could
18 prevent the future use of seclusion or behavioral restraints.

19 (d) The facility staff shall document in the ~~patient's~~ *person's*
20 record that the debriefing session took place and any changes to the
21 person's treatment plan that resulted from the debriefing.

22 ~~1180.5. A facility described in subdivision (b) of Section 1180~~
23 ~~shall report each death or serious injury occurring during, or~~
24 ~~related to, the use of seclusion or behavioral restraints. This report~~
25 ~~shall be made to the agency designated in subdivision (h) of~~
26 ~~Section 4900 of the Welfare and Institutions Code no later than the~~
27 ~~close of the business day following the death or injury. The report~~
28 ~~shall include the name of the person involved, and the name, street~~
29 ~~address, and telephone number of the facility.~~

30 *1180.6. The State Department of Health Services, the State*
31 *Department of Mental Health, the State Department of Social*
32 *Services, and the State Department of Developmental Services*
33 *shall annually provide information to the Legislature, during*
34 *Senate and Assembly budget committee hearings, about the*
35 *progress made in implementing this division. This information*
36 *shall include the progress of implementation and barriers to*
37 *achieving full implementation.*

O